

AMENDED IN ASSEMBLY MARCH 2, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 157**

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**Introduced by Assembly Member Anderson**

January 26, 2009

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An act to amend Section 69 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 157, as amended, Anderson. Property taxation: transfer of base year value: disaster relief.

Existing property tax law provides, pursuant to a requirement of the California Constitution, that the property tax base year value of real property that is substantially damaged or destroyed by a disaster, as declared by the Governor, may be transferred to a comparable property located within the same county that is acquired or newly constructed within 5 years after the disaster as a replacement property.

This bill would, for disasters occurring on or after July 1, 2007, *and for the Cedar Fires of 2003*, expand this transfer authorization to allow a comparable replacement property to be acquired or newly constructed within 7 years, rather than 5 years, after a disaster.

*This bill would make a legislative finding and declaration as to the necessity for a special statute as well as a legislative finding and declaration relating to the public purpose served by specified provisions of the bill.*

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. Section 69 of the Revenue and Taxation Code is amended to read:

69. (a) Notwithstanding any other provision of law, pursuant to Section 2 of Article XIII A of the Constitution, the base year value of property which is substantially damaged or destroyed by a disaster, as declared by the Governor, may be transferred to comparable property within the same county which is acquired or newly constructed within seven years after the disaster, or five years in the case of the Northridge earthquake, as a replacement for the substantially damaged or destroyed property. At the time the base year value of the substantially damaged or destroyed property is transferred to the replacement property, the substantially damaged or destroyed property shall be reassessed at its full cash value; however, the substantially damaged or destroyed property shall retain its base year value notwithstanding the transfer authorized by this section. If the owner or owners of substantially damaged or destroyed property receive property tax relief under this section, that property shall not be eligible for property tax relief under subdivision (c) of Section 70 in the event of its reconstruction.

(b) The replacement base year value of the replacement property acquired shall be determined in accordance with this section.

The assessor shall use the following procedure in determining the appropriate replacement base year value of comparable replacement property:

(1) If the full cash value of the comparable replacement property does not exceed 120 percent of the full cash value of the property substantially damaged or destroyed, then the adjusted base year value of the property substantially damaged or destroyed shall be transferred to the comparable replacement property as its replacement base year value.

(2) If the full cash value of the replacement property exceeds 120 percent of the full cash value of the property substantially damaged or destroyed, then the amount of the full cash value over 120 percent of the full cash value of the property substantially damaged or destroyed shall be added to the adjusted base year value of the property substantially damaged or destroyed. The sum

1 of these amounts shall become the replacement property's  
2 replacement base year value.

3 (3) If the full cash value of the comparable replacement property  
4 is less than the adjusted base year value of the property  
5 substantially damaged or destroyed, then that lower value shall  
6 become the replacement property's base year value.

7 (4) The full cash value of the property substantially damaged  
8 or destroyed shall be the amount of its full cash value immediately  
9 prior to its substantial damage or destruction, as determined by  
10 the county assessor of the county in which the property is located.

11 (c) For purposes of this section:

12 (1) Property is substantially damaged or destroyed if it sustains  
13 physical damage amounting to more than 50 percent of its full  
14 cash value immediately prior to the disaster. Damage includes a  
15 diminution in the value of property as a result of restricted access  
16 to the property where the restricted access was caused by the  
17 disaster and is permanent in nature.

18 (2) Replacement property is comparable to the property  
19 substantially damaged or destroyed if it is similar in size, utility,  
20 and function to the property which it replaces.

21 (A) Property is similar in function if the replacement property  
22 is subject to similar governmental restrictions, such as zoning.

23 (B) Both the size and utility of property are interrelated and  
24 associated with value. Property is similar in size and utility only  
25 to the extent that the replacement property is, or is intended to be,  
26 used in the same manner as the property substantially damaged or  
27 destroyed and its full cash value does not exceed 120 percent of  
28 the full cash value of the property substantially damaged or  
29 destroyed.

30 (i) A replacement property or any portion thereof used or  
31 intended to be used for a purpose substantially different than the  
32 use made of the property substantially damaged or destroyed shall  
33 to the extent of the dissimilar use be considered not similar in  
34 utility.

35 (ii) A replacement property or portion thereof that satisfies the  
36 use requirement but has a full cash value that exceeds 120 percent  
37 of the full cash value of the property substantially damaged or  
38 destroyed shall be considered, to the extent of the excess, not  
39 similar in utility and size.

1 (C) To the extent that replacement property, or any portion  
2 thereof, is not similar in function, size, and utility, the property,  
3 or portion thereof, shall be considered to have undergone a change  
4 in ownership when the replacement property is acquired or newly  
5 constructed.

6 (3) “Disaster” means a major misfortune or calamity in an area  
7 subsequently proclaimed by the Governor to be in a state of disaster  
8 as a result of the misfortune or calamity.

9 (d) (1) This section applies to any comparable replacement  
10 property acquired or newly constructed on or after July 1, 1985.

11 (2) The amendments made by Chapter 1053 of the Statutes of  
12 1993 apply to any comparable replacement property that is acquired  
13 or newly constructed as a replacement for property substantially  
14 damaged or destroyed by a disaster occurring on or after October  
15 20, 1991, and to the determination of base year values for the  
16 1991–92 fiscal year and fiscal years thereafter.

17 (3) The amendments made by Chapter 317 of the Statutes of  
18 2006 apply to any comparable replacement property that is acquired  
19 or newly constructed as a replacement for property substantially  
20 damaged or destroyed by a disaster occurring on or after July 1,  
21 2003, and to the determination of base year values for the 2003–04  
22 fiscal year and fiscal years thereafter.

23 (4) *The amendments made by the act adding this paragraph*  
24 *apply to any comparable replacement property that is acquired*  
25 *or newly constructed as a replacement for property substantially*  
26 *damaged or destroyed by the Cedar Fire that commenced in*  
27 *October 2003, and to the determination of base year values for*  
28 *the 2003–2004 fiscal year and fiscal years thereafter.*

29 ~~(4)~~

30 (5) The amendments made by the act adding this paragraph  
31 apply to any comparable replacement property that is acquired or  
32 newly constructed as a replacement for property substantially  
33 damaged or destroyed by a disaster occurring on or after July 1,  
34 2007, and to the determination of base year values for the 2007–08  
35 fiscal year and fiscal years thereafter.

36 (e) Only the owner or owners of the property substantially  
37 damaged or destroyed, whether one or more individuals,  
38 partnerships, corporations, other legal entities, or a combination  
39 thereof, shall receive property tax relief under this section. Relief  
40 under this section shall be granted to an owner or owners of

1 substantially damaged or destroyed property obtaining title to  
2 replacement property. The acquisition of an ownership interest in  
3 a legal entity which, directly or indirectly, owns real property is  
4 not an acquisition of comparable property.

5 *SEC. 2. The Legislature finds and declares that a special law*  
6 *is necessary and that a general law cannot be made applicable*  
7 *within the meaning of Section 16 of Article IV of the California*  
8 *Constitution because of the*

9 *The Legislature finds and declares that a special law is necessary*  
10 *and that a general law cannot be made applicable within the*  
11 *meaning of Section 16 of Article IV of the California Constitution*  
12 *as a result of the unique difficulties being suffered by homeowners*  
13 *affected by the Cedar Fires of 2003.*

14 *SEC. 3. The Legislature finds and declares that this act fulfills*  
15 *a statewide public purpose because of all of the following:*

16 *(a) Former Governor Gray Davis had officially proclaimed a*  
17 *state of emergency declaring that the wildfires that occurred within*  
18 *the County of San Diego, commencing in October 2003, constitute*  
19 *conditions of extreme peril to public health and safety to persons*  
20 *and property within that county, thus qualifying affected persons*  
21 *for various forms of governmental assistance and relief.*

22 *(b) This act is consistent with the proclaimed disaster assistance*  
23 *and relief by extending necessary tax relief to affected homeowners,*  
24 *many of whom are still struggling to replace their homes lost in*  
25 *those wildfires or have encountered delays, not of their making,*  
26 *in this process of transferring their base year values of damaged*  
27 *or destroyed property to their replacement property.*

28 ~~SEC. 2.~~

29 *SEC. 4. This act provides for a tax levy within the meaning of*  
30 *Article IV of the Constitution and shall go into immediate effect.*